

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

LISA RYAN MURPHY
ADC #760343

PLAINTIFF

V.

No. 3:20CV00059-DPM-JTR

SHONDA FIELDS, Nurse, *et al.*

DEFENDANTS

ORDER

Defendants Shonda Fields, Dr. Jeffrey Stieve, Dr. Joseph Hughes, Betty Hutchinson, Judy Baiza, and David Kizer have filed a Motion for Partial Summary Judgment on the issue of exhaustion, a Brief in Support, and a Statement of Facts. *Docs. 40, 41 & 42*. Plaintiff has a right to file a Response to that Motion.

At the summary judgment stage, a plaintiff cannot rest upon mere allegations and, instead, must meet proof with proof. *See* Fed. R. Civ. P. 56(e). This means that Plaintiff's Response should include her legal arguments, as well as affidavits,¹ prison records, or other evidence establishing that there is a genuine issue of material fact that must be resolved at a hearing or trial.

Furthermore, pursuant to Local Rule 56.1, Plaintiff must separately file a "short and concise statement of material facts as to which she contends a genuine

¹The affidavit must be based upon the personal knowledge of the person executing the affidavit and must be either: (1) sworn and subscribed to by a notary public; or (2) executed under penalty of perjury, as provided for by 28 U.S.C. § 1746.

dispute exists to be tried.” Defendants’ Statement of Facts (*Doc. 42*) contains room for Plaintiff to write, below each numbered paragraph, whether she “agrees” or “disagrees” with Defendants’ factual statement. **If Plaintiff disagrees, she must explain, in the provided space, why she disagrees and include a citation to the evidence she is relying on to support her version of the disputed fact.** If Plaintiff relies on documents that have been previously filed in the record, she must specifically refer to those documents by docket number and page. The Court will not sift through the file to find support for Plaintiff’s factual contentions. *See Crossley v. Georgia-Pacific Corp.*, 355 F.3d 1112, 1113-14 (8th Cir. 2004) (affirming the grant of summary judgment because a plaintiff failed to properly refer to specific pages of the record that supported his position).

IT IS THEREFORE ORDERED THAT:

1. Plaintiff has until and including **January 4, 2021**, to file a Response to Defendants’ Motion for Partial Summary Judgment and a separate Statement of Disputed Facts that comply with Fed. R. Civ. P. 56, Local Rule 56.1, and the instructions in this Order.

2. Plaintiff is advised that the failure to timely and properly file a Response and Statement of Disputed Facts will result in: (a) all of the facts in Defendants’ Statement of Facts being deemed undisputed by Plaintiff; and (b) the possible dismissal of this action, without prejudice, pursuant to Local Rule 5.5(c)(2).

DATED this 2nd day of December, 2020.

A handwritten signature in black ink, appearing to read "J. Thomas Ray", is positioned above a horizontal line.

UNITED STATES MAGISTRATE JUDGE